

### 3. **REGULATIONS**

#### A. **Transportation Workplace Drug and Alcohol Testing (DOT)**

On December 19, 2000, (65 FR 79462), the U.S. Department of Transportation (DOT) promulgated a final rule (49 CFR part 40) that revises its transportation workplace drug and alcohol testing procedures regulation. The purposes of the revision are to make the organization and language of the regulation clearer, to incorporate guidance and interpretations of the rule into its text, and to update the rule to include new provisions responding to changes in technology, the testing industry, and DOT's program.

Issues addressed by the revised rule include: (1) administrative provisions; (2) employer responsibilities; (3) urine collection personnel; (4) collection sites, forms, equipment, and supplies used in DOT urine collections; (5) urine specimen collections; (6) drug testing laboratories; (7) medical review officers and the verification process; (8) split specimen tests; (9) problems in drug tests; (10) alcohol testing personnel; (11) testing sites, forms, equipment, and supplies used in alcohol testing; (12) alcohol screening tests; (13) alcohol confirmation tests; (14) problems in alcohol testing; (15) substance abuse professionals and the return-to-duty process; (16) confidentiality and release of information; (17) roles and responsibilities of service agents; and (18) public interest exclusions.

For further information, contact Mr. Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (telephone: (202) 366-9310).

#### B. **Testing of Certain High Production Volume Chemicals (EPA)**

On December 26, 2000, (65 FR 81658), the U.S. Environmental Protection Agency (EPA) proposed a test rule (40 CFR part 799) under section 4(a)(1)(B) of the Toxic Substances Control Act (TSCA) to require manufacturers (including importers) and processors of certain high production volume chemical substances to conduct testing for acute toxicity, repeat dose toxicity, developmental and reproductive toxicity, genetic toxicity, ecotoxicity, and environmental fate. EPA has preliminarily determined that each of the 37 chemical substances included in this proposed rule is produced in substantial quantities and that there is substantial human exposure to each of them. Moreover, EPA believes that there are insufficient data to reasonably determine or predict the effects on health or the environment from the manufacture, distribution in commerce, processing, use, or disposal of the chemicals, or any combination of these activities. EPA has concluded that this proposed testing program is needed and appropriate for developing such data.

Data developed under this proposed rule will provide critical information about the environmental fate and potential hazards associated with these chemicals which, when combined with information about exposure and uses, will allow the Agency and others to evaluate potential health and environmental risks and take appropriate follow-up action. Persons who export or

intend to export any chemical substance included in the final rule based on this proposed rule would be subject to the export notification requirements in TSCA section 12(b)(1) and at 40 CFR part 707, subpart D. EPA has also taken steps to consider animal welfare and to provide instructions on ways to reduce or, in some cases, eliminate animal testing, while at the same time ensuring that the public health is protected.

For further information, contact Ms. Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (telephone: (202) 554-1404).

### C. Wastewater Discharges from Metal Products and Machinery Facilities (EPA)

On January 3, 2001, (66 FR 424), under the authority of the Clean Water Act (CWA) and the Pollution Prevention Act (PPA), the U.S. Environmental Protection Agency (EPA) issued a proposed rule (40 CFR parts 413, 433, 438, 463, 464, 467, and 471) that would establish technology-based effluent limitations guidelines and pretreatment standards for wastewater discharges associated with the operation of new and existing metal products and machinery (MP&M) facilities. The metal products and machinery industry includes facilities that manufacture, rebuild, or maintain metal products, parts, or machines. EPA estimates that compliance with this regulation will reduce the discharge of conventional pollutants by at least 115 million pounds per year, priority pollutants by 12 million pounds per year, and non-conventional metal and organic pollutants by 43 million pounds per year. This proposal only covers process wastewater generated at MP&M facilities. EPA has characterized typical MP&M unit operations as belonging to the following types: assembly/disassembly; metal deposition; metal shaping; organic deposition; printed wiring board; surface finishing; surface preparation; and dry dock operations. EPA is not covering non-process wastewater, which includes sanitary wastewater, non-contact cooling water, and storm water.

Entities potentially regulated by this action include industrial facilities that manufacture, maintain, or rebuild metal parts, products, or machines used in the following sectors: aerospace, aircraft, bus and truck, electronic equipment, hardware, household equipment, instruments, job shops, mobile industrial equipment, motor vehicles, office machines, ordnance, precious metals and jewelry, printed wiring boards, railroad, ships and boats, stationary industrial equipment, and miscellaneous metal products. State and local government facilities (e.g., a town that operates its own bus, truck, and/or snow removal equipment maintenance facility) and federal government facilities (e.g., U.S. Navy shipyards) that manufacture, maintain, or rebuild metal parts, products, or machines are also potentially regulated.

For further information, contact Mr. Michael Ebner, Engineering and Analysis Division, Office of Water, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (telephone: (202) 260-5397).

D. Numbering of Undocumented Barges (CG)

On January 11, 2001, (66 FR 2385), the Coast Guard, U.S. Department of Transportation, proposed to promulgate statutory requirements (46 CFR part 66) for numbering and marking barges. This rulemaking will establish a statutorily required numbering system for undocumented barges of more than 100 gross tons each operating on the navigable waters of the United States. A barge numbering system will help identify parties responsible for the illegal abandonment of barges and prevent future marine pollution from abandoned barges. Under this proposed rule, a “barge” means any vessel not equipped with a means of self-propulsion, and a “barge number” is that unique number issued to a barge by the National Vessel Documentation Center, which remains with the vessel throughout its life.

For further information, contact LCdr. Robyn MacGregor, Office of Waterways Security and Safety (G-MWP), U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, (telephone: (202) 267-0483).

E. Discharge of Dredged Material (ACE/EPA)

On January 17, 2001, (66 FR 4550), the U.S. Army Corps of Engineers (ACE) and the U.S. Environmental Protection Agency (EPA) published a final rule (33 CFR part 323) to amend the Clean Water Act (CWA) section 404 regulations defining the term “discharge of dredged material.” This final action is a follow-up on the earlier proposed rulemaking of August 16, 2000, in which the ACE and EPA proposed to amend the regulations to establish a rebuttable presumption that mechanized landclearing, ditching, channelization, in-stream mining, or other mechanized excavation activity in waters of the United States result in more than incidental fallback, and thus involve a regulable discharge of dredged material.

In response to concerns raised by some commenters that the proposal would have shifted the burden of proof to the regulated community as to what constitutes a regulable discharge, the agencies have revised the language to make clear that this is not the case. Additionally, in response to numerous comments, this final rule contains a definition of “incidental fallback.” This final rule will both enhance protection of the Nation’s aquatic resources, including wetlands, and provide increased certainty and predictability for the regulated community. At the same time, it continues to allow for case-by-case evaluations as to whether a regulable discharge of dredged material results from a particular activity, thus retaining necessary program flexibility to address the various fact-specific situations that are presented.

For further information, contact Mr. Mike Smith, CECW-OR, U.S. Army Corps of Engineers, 441 G Street, NW, Washington, DC 20314, (telephone: (202) 761-4598), or Mr. John Lishman, Office of Wetlands, Oceans, and Watersheds (4502F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (telephone: (202) 260-9180).

F. Control of Air Pollution from New Heavy-Duty Motor Vehicles (EPA)

On January 18, 2001, (66 FR 5002), the U.S. Environmental Protection Agency (EPA) issued a final rule (40 CFR parts 69, 80, and 86) concerning the control of air pollution from new motor vehicles, i.e., heavy-duty engine and vehicle standards and highway diesel fuel sulfur control requirements. The pollution by diesel engines contributes greatly to the Nation's continuing air quality problems. Even with more stringent heavy-duty highway engine standards set to take effect in 2004, these engines will continue to emit large amounts of nitrogen oxides (NO<sub>x</sub>) and particulate matter (PM), both of which contribute to serious public health problems in the United States. These problems include premature mortality, aggravation of respiratory and cardiovascular disease, aggravation of existing asthma, acute respiratory symptoms, chronic bronchitis, and decreased lung function. Numerous studies also link diesel exhaust to increased incidence of lung cancer. EPA believes that diesel exhaust is likely to be carcinogenic to humans by inhalation and that this cancer hazard exists for occupational and environmental levels of exposure.

EPA is establishing a comprehensive national control program that will regulate the heavy-duty vehicle and its fuel as a single system. As part of this program, new emission standards will begin to take effect in model year 2007, and will apply to heavy-duty highway engines and vehicles. These standards are based on the use of high-efficiency catalytic exhaust emission control devices or comparably effective advanced technologies. Because these devices are damaged by sulfur, EPA is also reducing the level of sulfur in highway diesel fuel significantly by mid-2006. The program provides substantial flexibility for refiners, especially small refiners, and for manufacturers of engines and vehicles. These options will ensure that there is widespread availability and supply of the low sulfur diesel fuel from the very beginning of the program, and will provide engine manufacturers with the lead time needed to efficiently phase-in the exhaust emission control technology that will be used to achieve the emissions benefits of the new standards.

EPA estimates that heavy-duty trucks and buses today account for about one-third of NO<sub>x</sub> emissions and one-quarter of PM emissions from mobile sources. In some urban areas, the contribution is even greater. This program will reduce PM and NO<sub>x</sub> emissions from heavy duty engines by 90 percent and 95 percent below current standard levels, respectively. In order to meet these more stringent standards for diesel engines, the program calls for a 97 percent reduction in the sulfur content of diesel fuel. As a result, diesel vehicles will achieve gasoline-like exhaust emission levels. EPA is also finalizing more stringent standards for heavy-duty gasoline vehicles, based in part on the use of low sulfur gasoline that will be available when the standards go into effect.

The clean air impact of this program will be dramatic when fully implemented. By 2030, this program will reduce annual emissions of nitrogen oxides, nonmethane hydrocarbons, and particulate matter by a projected 2.6 million, 115,000 and 109,000 tons, respectively. EPA projects that these reductions and the resulting significant environmental benefits of this program will come at an average cost increase of about \$2,000 to \$3,200 per new vehicle in the near term and about \$1,200 to \$1,900 per new vehicle in the long term, depending on the vehicle size.

EPA estimates that when fully implemented the sulfur reduction requirement will increase the cost of producing and distributing diesel fuel by about 5 cents per gallon.

For further information, contact Ms. Margaret Borushko, National Vehicle and Fuel Emissions Laboratory, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105, (telephone: (734) 214-4334).

#### G. Safety Standards for Steel Erection (OSHA)

On January 18, 2001, (66 FR 5196), the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, published a final rule (29 CFR part 1926) that revises the construction industry safety standards which regulate steel erection. This final rule enhances protections provided to workers engaged in steel erection and updates the general provisions that address steel erection. The rule sets performance-oriented criteria, where possible, to protect employees from steel erection related hazards such as working under loads; hoisting, landing and placing decking; column stability; double connections; hoisting, landing, and placing steel joists; and falls to lower levels. To effectuate this, the final rule contains requirements for hoisting and rigging, structural steel assembly, beam and column connections, joist erection, systems-engineered metal building erection, fall protection, and training.

For further information, contact Ms. Bonnie Friedman, Director, Office of Public Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, (telephone: (202) 693-1999).

#### H. Occupational Injury and Illness Recording and Reporting (OSHA)

On January 19, 2001, (66 FR 5916), the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, issued a final rule (29 CFR parts 1904 and 1952) that revises its regulations addressing the recording and reporting of occupational injuries and illnesses, including the forms employers use to record those injuries and illnesses. The revisions will produce more useful injury and illness records, collect better information about the incidence of occupational injuries and illnesses on a national basis, promote improved employee awareness and involvement in the recording and reporting of job-related injuries and illnesses, simplify the injury and illness recordkeeping system for employers, and permit increased use of computers and telecommunications technology for OSHA recordkeeping purposes. This final rule also revises the recordkeeping and reporting requirements for states that have an occupational safety and health program approved by OSHA under the Occupational Safety and Health Act.

For further information, contact Mr. Jim Maddux, Directorate of Safety Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, (telephone: (202) 693-2222).

## I. Harmonization with International Standards (RSPA)

On February 1, 2001, (66 FR 8644), the Research and Special Programs Administration (RSPA), U.S. Department of Transportation, published a final rule (49 CFR parts 171, 172, 173, and 176) that updates three incorporations by reference in the Hazardous Materials Regulations (HMR) to include the most recent amendments to the International Maritime Dangerous Goods Code (IMDG Code), the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations), and the United Nations Recommendations Manual of Tests and Criteria. This action is necessary to facilitate the continued transport of hazardous materials in international commerce by vessel. This final rule incorporates Amendment 30 of the IMDG Code, the 11<sup>th</sup> revised edition of the UN Recommendations, and the 3<sup>rd</sup> revised edition of the UN Recommendations Manual of Tests and Criteria.

For further information, contact Ms. Joan McIntyre, Office of Hazardous Materials Standards, (telephone: (202) 366-8553), or Mr. Bob Richard, Assistant International Standards Coordinator, (telephone: (202) 366-0656), Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590.